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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,437	04/27/2006	Yuka Otomaru	023174-0163	3427

22428 7590 04/28/2008
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

LU, C CAIXIA

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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04/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,437	Applicant(s) OTOMARU ET AL.	
	Examiner Caixia Lu	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/13/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 1-39, 62 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 40-61 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group III, claims 40-61, in the reply filed on March 13, 2008 is acknowledged. The traversal is on the ground(s) that there is no undue burden to search and examine both Groups III and IV. This is not found persuasive because the restriction is based on lack of unity of invention under 35 USC 121 and 372. Therefore, Groups III and IV are not required to be examined together. It would be at the examiner's discretion to rejoin Group IV, claims 62-63, with Group III upon the allowance of Group III if the claims of Group IV are free of informalities. The requirement is still deemed proper and is therefore made FINAL.

2. It is noted that more than one transition metal complex species have been improperly elected. However, since the search results indicated all of the transition metal complex species are novel, further election of transition metal complex species is deemed unnecessary.

Claim Objections

3. Claims 40-61 are objected to because of the following informalities, and appropriate correction is required.

(i) In line 20 of page 25, the first term "and" is improper and should be replaced with a --,--.

(ii) In line 7 of page 26, below formula (2), the limitation of G^2 defined in claim 1 should be incorporated to claim 40 since claim 1 is restricted.

(iii) In line 9 of page 26, the term "an" should be replaced with --the--.

- (iv) In line 3 of claim 43, the term "an" should be replaced with --the--.
- (v) In line 11 of claim 62, the letter "c" should be replaced with --a--.
- (vi) In the last line of page 29, the term "and" should be deleted.
- (vii) At the end the second line from the end of claim 62, --, and-- should be inserted thereupon.

Allowable Subject Matter

- 4. Claims 40-61 would be allowable if rewritten or amended to overcome the objections set forth in this Office action.

There is not prior art teach or reasonably suggest the transition metal complexes of the instant claims.

Conclusion

- 5. This application is in condition for allowance except for the above formal matters. Applicants are urged to cancel the nonelected claims in order to put the elected claims of 40-61 of Group III and optionally claims of Group IV (if free of informalities) in the condition for allowance.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached on 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Caixia Lu/
Caixia Lu, Ph. D.
Primary Examiner
Art Unit 1796